



DEPARTMENT OF STATE

Washington, D.C. 20520

February 12, 1969

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TO : INTELSAT - Ambassador Marks and other  
members of Delegation Executive Committee

FROM : E/TT - Frank E. Loy *ELL*

SUBJECT: Report of U.S. Delegation Responsible for  
Preparations for Committee I

In accordance with your request, this group met on  
February 10 and 12 and arrived at the following conclusions:

1. Temporary Chairman of Committee I.

Committee I needs a temporary chairman until it has  
selected its permanent chairman. The Executive Committee  
should determine whether it is desirable for you to act  
as temporary chairman or for you to designate one of the  
Conference Vice Chairmen so to act. Most of the group  
thought the latter was desirable.

2. Functions of Committee I.

We believe that Committee I as a whole should meet  
initially only for the purpose of agreeing to the establish-  
ment of Subcommittees IA and IB and their respective terms  
of reference. Thereafter, Committee I should recess and let  
the Subcommittees get started. Committee I would then meet  
something like every third day to receive reports from the  
Subcommittees. The work and the negotiation would take place  
mostly in the Subcommittees. Committee I would also, hope-  
fully, not be the forum of general speeches or statements.  
If countries now insist on making these, we hope they will  
be made in the plenary.

3. Voting

There were numerous views on the question of the extent  
to which various bodies should vote or act by consensus.  
Our discussion produced the following:

- (a) The Subcommittees should be treated largely  
as working groups that try to limit the number  
of choices and try to negotiate various issues  
in an effort to get a consensus behind one  
choice, or at least a clear cut statement of  
alternatives. Subcommittees probably should not  
vote.

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- 2 -

- (b) It would be desirable to vote in Subcommittee I when the Subcommittee has produced clearly defined alternatives.
- (c) Some members of the group felt that voting in Committee I could only be achieved -- at least without a major fight on the Conference rules-- if we agreed not to have formal votes in the plenary in the absence of a substantial consensus. Others felt that we should not give up any voting except the vote on the texts of the agreement itself, as contemplated by paragraph 20 D of the Provisional Rules of Procedure. I might say that there was some dispute as to how serious it would be if we had a lengthy debate on adoption of these rules.

#### 4. Dealing with the Europeans

There was total agreement and a strong feeling that it is a mistake for the US to make a secret deal with the Europeans in advance of the Conference. We had in mind the issue of voting, but the proposition is broader than that. Many others, not only LDCs but countries such as Australia and Japan, are worried about a US - Europe agreement that subordinates their views and interests. It was also the view of our group that it was undesirable to encourage the designation of a CETS spokesman for all the Europeans.

#### 5. Working Groups

While it is possible that Subcommittees A and B would establish working groups to handle specific issues, the United States would not propose formal further subdivision of these Subcommittees. The reason is in part our commitment to a number of countries that not more than four groups would ever meet at the same time.

#### 6. Terms of Reference and Agendas

Attached hereto are Terms of Reference for both Subcommittees and agenda for both Subcommittees. These were discussed and generally agreed but no one finally "signed off". The group felt that Committee I should, as a full Committee, approve the Terms of Reference for each of these Subcommittees, and that each Subcommittee, in turn, should adopt its agenda. Adoption of the agenda may be more contentious because the order in which matters are discussed can have some tactical significance.

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- 3 -

7. Name of Governing Body

There was general consensus that the Governing Body as we envision it should be termed something else, and the most acceptable alternative to the group was "Board of Governors."

8. Committee Chairman

The group considered the draft of the proposed memorandum concerning Committee and Subcommittee chairmen, and made specific suggestion which will be reflected in a redraft of that memorandum.

9. Additional Documents

We identified the need for two kinds of additional documents:

First, documents we might wish to distribute, and second, documents which are in the nature of talking papers for the U.S. Delegation, marshaling arguments for various U.S. positions.

We have not, however, had a chance to prepare a list of these documents.

Attachments:

Tab A - }  
Tab B - } Terms of Reference  
Tab C - Proposed Agenda for Subcommittee I(A).  
Tab D - Tentative Agenda for Subcommittee I(B)

E/TT:FELoy:fbp

cc: Messrs. Asher Ende,  
William English, John O'Malley

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TABS A and B

Terms of Reference of Subcommittee I.B

Subcommittee I.B shall study and make recommendations with respect to legal and procedural questions associated with the structuring and entry into force of the definitive arrangements. Specifically, the subcommittee will include in its considerations what definitions should be specified in the agreements, the legal status of INTELSAT under the definitive arrangements, privileges and immunities, the mechanisms for accession and supercession, appropriate withdrawal provisions, the liability of partners, amendment processes and the means of settlement of disputes.

The Subcommittee shall adopt an appropriate agenda to facilitate consideration of the matters included in its terms of reference, and shall, after discussion and deliberation, report its recommendations to Committee I for appropriate action and forwarding to the Plenary.

Terms of Reference for Subcommittee I(A)

Subcommittee I(A) shall study and make appropriate recommendations with respect to purposes and objectives of Intelsat; Intelsat membership; scope of Intelsat activities; rights and obligations of members; structure of the organization; number and duration of agreements, as well as signatories thereto; and relationships with the ITU.

The Subcommittee shall adopt an appropriate agenda to facilitate consideration of the matters included in its terms of reference and shall, after due discussion and deliberation, report its recommendations to Committee I for appropriate action and forwarding to the Plenary.

PROPOSED AGENDA FOR SUBCOMMITTEE I(A)

ICSC Report Par

I.	Objectives and purposes of INTELSAT	163-187
II.	Eligibility for INTELSAT membership	228-230
III.	Relationships with non-member States	550-556
	a) Non-member States eligible for membership	
	b) States ineligible for membership	
IV.	Number of agreements constituting the definitive arrangements	568-571
V.	Signatories of the agreements	572-576
VI.	Duration of the agreements	577-580
VII.	Scope of INTELSAT's activities	188-227
	a) International public telecommunications services	193-195
	b) International specialized telecommunications services	196-202
	c) Domestic telecommunications services	203-225
	d) Meeting needs of national security nature	226-227
VIII	Rights and obligations of members	
	a) General	599-605
	b) In relation to satellites providing domestic services	215-225 609-611
	c) In relation to satellites for specialized services	612-617
	d) In relation to satellites intended to meet national security needs	618-621
	e) In relation to regional satellites providing international services	606-608 216-225

## IX. Structure of the Organization

237-244

## a) The Governing Body

## 1) Functions

197, 200-202, 205,  
207, 209, 212-225,  
227, 367-390,  
481-486

## 2) Size, composition and organization

271, 300, 328,  
344-366, 424-430, 481

## 3) Voting

391-423, 481

## b) Assembly

## 1) Functions

264-281, 293-309  
318-333, 480

## 2) Composition

246-260

## 3) Frequency of meetings

288-291, 315-317,  
340-343

## 4) Voting

283-287, 310-314,  
334-339

## c) Management Body

## 1) Functions

463-477

## 2) Identity, character and designation

431-462, 487-488

## 3) Relationship to the Governing Body

255-256

## X. Relationship with the ITU

216-217, 561, 563,  
565, 607, 610, 614  
615

TENTATIVE AGENDA FOR SUBCOMMITTEE I.B

- I. Definitions (146-162)\*
  - A. Intergovernmental
  - B. Operating
  - C. Recommendations
- II. Legal Status of INTELSAT (231-236)
  - A. Comparison of present legal structure (Joint Venture) with an Independent Legal Status for INTELSAT
    - 1. Ability to conduct business
      - a. Contracting
      - b. Acquisition of property
      - c. Protection of property interests
    - 2. Ramifications
      - a. Ownership
      - b. Liabilities
      - c. Taxation
      - d. Other
    - 3. Implementation
  - B. Conclusions
  - C. Recommendations
- III. Privileges and Immunities (594-596)
  - A. Present Status of INTELSAT

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\*Paragraph references are to sections of the Report of the Interim Communications Satellite Committee on Definitive Arrangements for an International Global Communications Satellite System.



B. Categories of Immunities

1. Taxation
2. Customs
3. Civil and Criminal Process
4. Search, seizure and attachment
5. Confiscation of assets

C. Implementing Arrangements

1. Headquarters Agreements
2. Other Mechanisms

D. Recommendations

IV. Accession, Supersession and Buy-Out (626)

A. Accession and Supersession

1. Formula for Entry Into Force - Unanimity vs. Less Than Unanimity
  - a. General principles of International Law
  - b. Requirements of Article IX(b)
2. Transfer of Rights and Obligations under Interim Arrangements

B. Obligations and Rights of Non-Continuing Prior Members

1. Article IX(b)
2. General Principles of Equity and Law applicable to Partnerships and Joint Ventures
3. Financial Obligations and Rights
4. Patent and Data Rights



V. Withdrawal Provisions (622-625)

A. Voluntary Withdrawal - Permissive?

1. Obligations and Rights of Withdrawing Signatory

B. Involuntary Withdrawal

1. What constitutes Default?

a. Non-payment - grace period

b. Non-compliance with Terms of Agreements

2. Consequences

a. Suspension of Rights - Automatic?

b. Expulsion - Role of Assembly and Governing Body

VI. Liability of Partners Inter-Se

A. Article 13 of Special Agreement

B. For Obligations on behalf of INTELSAT

VII. Settlement of Disputes (591-593)

A. Adequacy of Existing Supplementary Agreement on Arbitration

1. Proposed Amendments

B. Operating Agreement or Separate Agreement?

VIII. Amendment Processes (581-590)

A. Intergovernmental Agreement

B. Operating Agreement

IX. Reservations